

REMARKS

Claims 1-47 are currently pending in the present application. Claims 1, 7, 18, 34 and 42 are independent claims. Claims 18, 24-25, 34, 39, 41-42, and 44 are amended by this Amendment. Claims 22, 38, and 43 are canceled by this Amendment. No claims are added by this Amendment.

Claim Rejections

Claims 18-21, 34-38, 42, and 45-57 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Meron et al. (WO 00/22975, herein Meron). Claims 1-5, 7, 9, 11, 15-17, 22, 25-27, 39, 40, and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Meron in view of Madar et al. (US 2004/0092825, herein Madar). Claims 6, 8, 10, 12-14, 23, 24, 28-33, 41, and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Meron in view of Madar and further in view of Bertera (US 5,368,582, herein Bertera). Applicant respectfully traverses these rejections.

Applicant notes that claim 1 recites *inter alia* “a repeatedly actuatable closure is integrated in the operating channel.” Further Applicant notes that claim 7 contains features somewhat similar to those noted above in regards to claim 1, and that claims 18, 34, and 42 are amended to include features somewhat similar to those discussed above in regards to claim 1.

The Examiner already admits at page 3 of the current Office Action that Meron fails to disclose “a controlled release or closing of the opening in the container.” Instead, the Examiner relies on Madar as teaching these features.

Madar discloses a technique for detecting fluorescence emitted by molecular constituents in a wall of a body lumen.¹ Madar discloses providing a drug or substance from a reservoir.² Madar further discloses that a reservoir includes a valve or valve which acts as a release

mechanism for releasing the contents of the reservoir.³ However, Madar is completely silent on the type of valves which are used or on the type of commands which are used to control the valves. In particular, Applicant respectfully submits Madar does not disclose explicitly or implicitly using valves and corresponding commands that enable **repeatable actuation** of the valves or that allow an opening and subsequent closing of the valves. To the contrary, Madar merely discloses “each reservoir has a release mechanism for releasing its contents to the body lumen on command.”⁴ Applicant respectfully submits, however, that example embodiments described in the specification allow for the possibility of setting several markers with a single capsule.

Therefore, Applicant respectfully submits Madar fails to disclose “a repeatedly actuatable closure is integrated in the operating channel” as required by claim 1. Applicant respectfully submits that even assuming for the sake of argument Bertera is combinable with Meron and/or Madar (which Applicant does not admit), Bertera fails to cure the deficiencies of Meron and Madar with respect to claim 1. Accordingly, Applicant respectfully submits that claim 1 is patentable for at least the above reasons. Further, Applicant submits claims 7, 18, 34, and 42 contain features somewhat similar to those discussed above in regards to claim 1, and, therefore, claims 7, 18, 34, and 42 are patentable for at least somewhat similar reasons as claim 1. Applicant also submits that claims 2-6, 8-17, 19-21, 23-34, 35-37, 39-41, and 44-47, which depend from one of claims 1, 7, 18, 34, and 42, are patentable for at least the same reasons as claims 1, 7, 18, 34, and 42 as well as on their own merits.

In view of the above, Applicant respectfully requests the rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103 be withdrawn.

¹ See *Madar* at Abstract.

² See *Id.* at paragraph [0054], [0065], [0105], and [0111].

³ See *Id.* at paragraph [0156].

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections and allowance of each of the claims in connection with the present application is earnestly solicited.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Donald J. Daley at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By


Donald J. Daley, Reg. No. 34,313
P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

DJD/AAM: tlt